



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 25 2004

Received 6/8/04

EI-863  
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REPLY TO THE ATTENTION OF:

B-19J

Ken Blodgett  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423

Re: Docket No. AB-6 (Sub-No. 413X), *Burlington Northern and Santa Fe Railway Company - Abandonment Exemption*

Dear Mr. Blodgett:

In accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (U.S. EPA) has reviewed an Environmental/Historic Report (Report) submitted by the attorneys for the Burlington Northern and Santa Fe Railway Company (BNSF). The Report addresses a petition for abandonment offered by BNSF for approximately 0.99 miles of rail line in Stillwater, Minnesota.

Pursuant to a review of the Report, it is not clear whether BNSF intends to remove the rails and ties from the right-of-way (ROW). If BNSF intends to remove track material, we feel the proposed abandonment raises several questions. To that end, we have the following comments which should be discussed in the forthcoming Environmental Assessment:

- Removal and ultimate disposal of rails should be conducted according to applicable environmental regulations;
- Per the July 3, 1984 Rebuttable Presumption Against Registration for three major wood preservatives under the Federal Insecticide, Fungicide, and Rodenticide Act, wood treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Minnesota;
- Storing and fueling of construction equipment should take place in upland areas, away from water bodies, floodplains or other sensitive habitat;
- Prevention and/or control of spills (i.e., fuels, lubricants or other pollutants) from construction equipment should be conducted according to applicable environmental regulations;
- Abandonment would be premature without final decisions from the Washington County Board of Commissioners and the City of Stillwater regarding possible alternate uses for the ROW. Such a decision is particularly relevant because the Minnesota Historical Society needs to be informed of future plans in order to complete its review of the project; and

- The Report indicates the Minnesota Department of Natural Resources (MnDNR) believes the proposed abandonment will not affect any known occurrences of rare species or natural communities. However, consultation with the MnDNR consisted of a review by the Natural Heritage and Nongame Research Program which focuses only on rare plant or animal species or other significant natural features. This review does not constitute review or approval by MnDNR as a whole. Therefore, the U.S. EPA recommends the Regional Environmental Assessment Ecologist, Wayne Barstad, be contacted to facilitate a full review of the effects of this project on state endangered or threatened species or areas designated as critical habitat, particularly in light of the proximity to the St. Croix River. We also recommend consultation with the U.S. Fish and Wildlife Service to determine the effects of this project on federally-listed endangered or threatened species or areas designated as critical habitat. We feel the Report is incomplete without the opinions of these agencies.

We look forward to receiving the Surface Transportation Board's Environmental Assessment regarding this abandonment. Should you have any questions, please do not hesitate to contact me or Kathleen Kowal of my staff at (312) 353-5206 or via e-mail at [kowal.kathleen@epa.gov](mailto:kowal.kathleen@epa.gov).

Sincerely,



Kenneth A. Westlake, Chief  
Environmental Planning and Evaluation Branch

cc: Michael A. Smith, Attorney for BNSF